

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

1300 Franklin Street
P.O. Box 9810
Vancouver WA 98668-9810
Phone (360) 397-2375
Form DS1333

NOTICE TO PARTIES OF RECORD

PROJECT NAME: Tri-Mountain Estates Post Decision

CASE NUMBERS: PST2010-00001

The attached decision of the Land Use Hearing Examiner is final unless a motion is filed for reconsideration or an appeal is filed with Superior Court.

Motion for Reconsideration:

Any party of record to the proceeding before the hearings examiner may file with the responsible official a motion for reconsideration of an examiner's decision within fourteen (14) calendar days of written notice of the decision. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The motion must be accompanied by the applicable fee and identify the specific authority within the Code or other applicable laws, and/or specific evidence, in support of reconsideration. A motion may be granted for any one of the following causes that materially affects their rights of the moving party:

- a. Procedural irregularity or error, clarification, or scrivener's error, for which not fee will be charged;
- b. Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- c. The decision is not supported by substantial evidence in the record; or,
- d. The decision is contrary to law.

Any party of record may file a written response to the motion if filed within fourteen (14) calendar days of filing a motion for reconsideration.

The examiner will issue a decision on the motion for reconsideration within twenty-eight (28) calendar days of filing of a motion for reconsideration.

Mailed on: April 19, 2010

Project Name: Tri Mountain Estates
Project Number: PST2010-00001
Planner: Richard Daviau
Hearing Date: 4/8/10

MR. DANIEL KEARNS
Reeve Kearns PC
dan@ReeveKearns.com
(Email)

MR. J. RICHARD FORESTER
forester@mediate.com
(Email)

MR JOE TURNER
jtpc@verizon.net
(Email)

THE COLUMBIAN
STEPHANIE RICE
Stephanie.Rice@columbian.com
(Email)

VANCOUVER SCHOOL DIST
ATTN: HEIDI ROSENBERG
PO BOX 8937
VANCOUVER WA 98668-8937

VANCOUVER/CLARK PARKS
INTEROFFICE MAIL

WA DEPT. OF TRANSPORTATION
ATTN: JEFF BARSNESS
BarsneJ@wsdot.wa.gov
(Email)

FT VANCOUVER REGIONAL LIBRARY
1007 EAST MILL PLAIN BLVD.
VANCOUVER WA 98663

CARLA SOWDER
HEALTH DEPARTMENT
INTEROFFICE MAIL
(Email)

JANET SEEKINS
ASSESSOR'S OFFICE
(Email)

STEVE SCHULTE
PUBLIC WORKS
(Email)

PLANNER:
(Email)

ROSIE HSIAO
(Email)

DAVID JARDIN
PUBLIC WORKS
(Email)

SUSAN RICE
(Email)

LINDA MOORHEAD
CODE ENFORCEMENT
(Email)

DEVELOPMENT ENG
(Email)

DESIREE DE MONYE
(Email)

HOLLY GAYA
(Email)

Tri-Mountain Estates Post Decision
Review
PST2010-00001
Hearing Date: 4/8/10
Planner: Richard Daviau

Tri-Mountain Estates LLC
Jeff Barger
911 Main Street, Suite 10
Vancouver, WA 98660
jeffb@ctslanguagelink.com

Minister-Glaeser Surveying Inc.
Chris Avery
2200 E. Evergreen Blvd
Vancouver, WA 98661
csa@mgsurvey.com

Neighborhood Advisory Committee of Clark
County (NACCC)
Art Stubbs
6804 NE 86 Court
Vancouver, WA 98662
sixsplus8@aol.com

Joel Sterling
joel@sterling-design.biz

BEFORE THE LAND USE HEARINGS EXAMINER
OF CLARK COUNTY, WASHINGTON

| | |
|--|-------------------------------|
| Regarding an application by Tri-Mountain Estates LLC) | <u>FINAL ORDER</u> |
| for post-decision approval to modify a previously) | |
| approved 16-lot cluster subdivision at 35001 NE 91 st) | PST2010-00001 |
| Avenue in unincorporated Clark County, Washington) | (Tri-Mountain Estates) |

A. FINDINGS AND CONCLUSIONS

1. On January 30, 2006 the County granted preliminary plat approval to subdivide roughly 81.33-acres into 16 lots for single family detached homes pursuant to the County's cluster subdivision ordinance. PLD2005-00108 (Tri-Mountain Estates). With this Post Decision Review application the applicant proposes to reconfigure some of the lots, add a 17th lot and establish a phasing plan to develop the site in three phases.

2. Clark County Hearings Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence regarding the application. County staff recommended approval of the application subject to conditions of approval. See the Development and Environmental Review, Staff Report and Recommendation to the Hearing Examiner dated March 24, 2010 (the "Staff Report"). The applicant accepted those findings and conditions without exceptions. No one else testified orally or in writing, other than public agency staff.

3. Based on the findings provided or incorporated herein, the examiner approves the application subject to the conditions at the conclusion of this final order.

B. HEARING AND RECORD

1. The examiner received testimony at a duly noticed public hearing about this application on April 8, 2010. That testimony and evidence, including a videotape of the public hearing and the casefile maintained by the Department of Community Development ("DCD"), are included herein as exhibits. A list of the exhibits is attached to and incorporated into this final order. The exhibits are filed at DCD. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. At the hearing County planner Richard Daviau summarized the Staff Report, the history of the development and the current application for post decision review approval.

3. Professional engineer Joel Stirling testified on behalf of the applicant, Tri-Mountain Estates LLC. He accepted the findings and conditions of approval in the Staff Report without exceptions.

4. The examiner closed the record at the end of the public hearing and announced his intention to approve the application subject to the conditions of approval in the Staff Report.

C. FINDINGS

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The following issues relate to the mandatory applicable approval criteria for this proposal and were addressed by County staff in their reports, by agency comments, by the applicant and others. The Examiner adopts the following findings with regard to each:

LAND USE:

Finding 1 - Cluster Provisions/Density

Tri-Mountain Estates was approved with 15 cluster lots and one remainder lot on 81.33 acres in the R-5 zone. During the final review the applicant realized that one cluster lot could be added while still complying with the cluster provisions, and submitted this post decision application. The cluster provisions allow the maximum density to be based on 110% of the gross site area (see CCC 40.210.020 D3). One hundred and ten percent of 81.33 is 89.46 and this divided by five (for the five acre minimum lot size requirement) is 17.89, rounded down to 17. Staff finds the applicant's request for 16 cluster lots and one remainder lot on 81.33 acres in the R-5 zone complies with the cluster provisions of CCC 40.210.020 D3.

Finding 2 - Preliminary Approved Plan

Other than the additional lot, there are no changes to the proposed plat. The remainder lot, which contains the critical areas of the site, has not been reduced in size. The private road accessing the cluster lots and the lot layout has not changed.

Finding 3 - Lot Requirements

Cluster lots are required to be at least one acre, 100 feet wide, and 140 feet deep. All of the proposed cluster lots comply with these provisions.

Finding 4 - State Platting Standards (RCW 58.17)

With conditions of approval, staff finds the proposed subdivision will make appropriate provisions for public health, safety, and general welfare of the community. Proof of adequate water and sewer service, as well as treatment of any increase of stormwater runoff, will be provided, to protect groundwater supply and integrity. Impact Fees will also be required to contribute a proportionate share toward the costs of school and transportation provisions, maintenance and services.

Finding 5 - Phasing Plan

Staff has reviewed the proposed phasing plan and has two comments. First, as the applicant pointed out, the internal private road (including the cul-de-sac) has already been constructed. The final plat for the first phase shall include the entire easement for the internal private road so it can be established up front. Second, the additional 5 feet of right-of-way dedication required along the entire frontage of NE 94th Avenue shall be identified with the final plat for the first phase. (See Condition D-2)

Conclusion (Land Use):

No other changes to the plat are authorized other than the additional lot and the phasing plan. Staff concludes that the proposed preliminary plan meets the land use requirements of the Clark County Code subject to conditions.

CITICAL AREAS:

Finding 6

There are no changes in the critical area boundaries or buffers requested or authorized from the original approval (PLD2005-00108).

TRANSPORTATION CONCURRENCY:

Finding 7

Staff has determined that additional trips associated with the proposed development do not exceed travel speed, delay and LOS standards. The intersections in the vicinity of the proposed development would be minimally impacted by the proposed development. Therefore, further analysis and mitigation by the applicant were not required. The proposed development complies with the Concurrency Ordinance CCC 40.350.020.

TRANSPORTATION

Finding 8 - Roads

All on site private roads are constructed to the approved engineering construction drawings for this project; therefore, no conditions are warranted for this finding.

Conclusion (Transportation):

Staff concludes that the proposed preliminary plan meets the transportation requirements of the Clark County Code.

STORMWATER:

Finding 9 - Applicability

In accordance with the Stormwater and Erosion Control Ordinance (CCC 40.385), new development and redevelopment within the rural areas that adds or replaces impervious area of greater than two thousand (2,000) square feet and less than five percent (5%) of a site, or is a land-disturbing activity greater than seven thousand (7,000) square feet, are subject to the minimum requirements dependent on site-specific characteristics.

- (1) Minimum requirements No. 1 through No. 5 shall apply if the project meets all of the following criteria:
 - (a) Is outside of habitat or wetland areas or their buffers; and

- (b) Does not generate runoff in channelized flow or discharge directly or indirectly to the county's storm sewer system; and
 - (c) Is not located in, and does not discharge onto, steep slope hazard areas or landslide hazard areas as designated in Section 40.430.010.
- (2) Projects not meeting all the criteria in Section 40.385.020(A)(5)(b)(1) shall be subject to minimum requirements No. 1 through No. 10.

Finding 10 - Stormwater Proposal

The applicant is proposing one additional cluster home site designated as Lot 5. The proposed driveway and home for this lot will result in creation of impervious surface over 2,000 square feet and over 7,000 square feet of land disturbing activity, therefore, Minimum Requirements #1 through #5 are applicable to the project. (See Conditions D-4a and E-1)

Conclusion (Stormwater):

Staff concludes that the applicant can comply with Clark County Stormwater Ordinance. Therefore, the requirements of the preliminary plan review criteria are satisfied.

IMPACT FEES:

Finding 11

The additional residential lot will produce impacts on schools and traffic, and will be subject to School (SIF) and Traffic Impact Fees (TIF) per dwelling. The site is located in the Rural 2 transportation sub-area with a TIF of \$593.82 per dwelling. The site is located in the La Center School District with a SIF of \$6,991.39 per dwelling.

Impact fees shall be paid prior to issuance of a building permit for each lot. If a building permit application is made more than three years following the date of preliminary plat approval, the impact fees will be recalculated according to the then-current ordinance rate. (See Condition D-3a & E-2)

PROJECT SCOPE:

Finding 12

The applicant proposes to add one lot and a phasing plan. No other modifications to the approval are requested or authorized at this time. Except as modified with this post decision review, all applicable conditions of the original preliminary subdivision shall be met (see Condition D-1).

B. ORDER

Based on the foregoing findings and except as conditioned below, the examiner hereby approves PST2010-00001 (Tri-Mountain Estates) in general conformance with the revised preliminary plat (Exhibit 5) and the plans and reports associated with this proposal (Exhibit 6). This approval is granted subject to the requirements that the

applicant, owner or subsequent developer (the "applicant") shall comply with all applicable code provisions, laws and standards and the following conditions.

Conditions of Approval

A Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

None

B Prior to Construction of Development Review & Approval Authority: Development Inspection

Prior to construction, the following conditions shall be met:

None

C Provisional Acceptance of Development Review & Approval Authority: Development Inspection

Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/land division plan and the following conditions of approval:

None

D Final Plat Review & Recording Review & Approval Authority: Development Engineering

Prior to final plat approval and recording, the following conditions shall be met:

- D-1 Except as specifically provided herein, all conditions of approval in the Hearings Examiner's Final Order for PLD2005-00108 (Tri-Mountain Estates Subdivision) shall remain in effect (see Finding 12).
- D-2 The final plat for the first phase shall include the entire easement for the internal private road and the additional 5 feet of right-of-way dedication required along the entire frontage of NE 94th Avenue (see Finding 5).
- D-3 **Developer Covenant** - A "Developer Covenant to Clark County" shall be submitted for recording to include the following:
 - a. Impact Fees: "In accordance with CCC 40.610, the School and Traffic Impact Fees for Lot 5 in this subdivision are: \$6,991.39 (La Center School District) and \$593.82 (Rural 2 TIF subarea) respectively. The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the

date of preliminary plat approval (post decision approval), dated _____, and expiring on _____. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule.”

D-4 **Plat Notes** - The following notes shall be placed on the final plat:

- a. “The Owner of Lot 5 must submit a stormwater plan addressing Minimum Requirements 1 through 5 in conformance with CCC 40.385 for new impervious area and disturbed land resulting from the new driveway and the new home within this lot.”

| | |
|----------|-------------------------|
| E | Building Permits |
|----------|-------------------------|

| | |
|--|--|
| | Review & Approval Authority: Customer Service |
|--|--|

Prior to issuance of a building permit, the following conditions shall be met:

E-1 At the time of building permit application, the Owner of Lot 5 must submit a stormwater plan addressing Minimum Requirements 1 through 5 in conformance with CCC 40.385 for new impervious area and disturbed land resulting from the new driveway and the new home within this lot. (See Finding 10)

E-2 **Impact Fees** - The applicant shall pay impact fees for Lot 5 as follows:

- a. \$6,991.39 per dwelling for School Impact Fees (La Center School Dist.)
- b. \$593.82 per dwelling for Traffic Impact Fees (Rural 2 TIF Sub-area)

If the building permit application is made more than three years following the date of preliminary site plan approval, the impact fees shall be recalculated according to the then-current rate.

| | |
|----------|--------------------------|
| F | Occupancy Permits |
|----------|--------------------------|

| | |
|--|--|
| | Review & Approval Authority: Building |
|--|--|

Prior to issuance of an occupancy permit, the following conditions shall be met:

None

| | |
|----------|--|
| G | Development Review Timelines & Advisory Information |
|----------|--|

| | |
|--|--|
| | Review & Approval Authority: None - Advisory to Applicant |
|--|--|

G-1 **Department of Ecology Permit for Construction Stormwater** - A permit from the Department of Ecology (DOE) is required If:

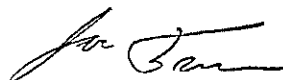
- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one-acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

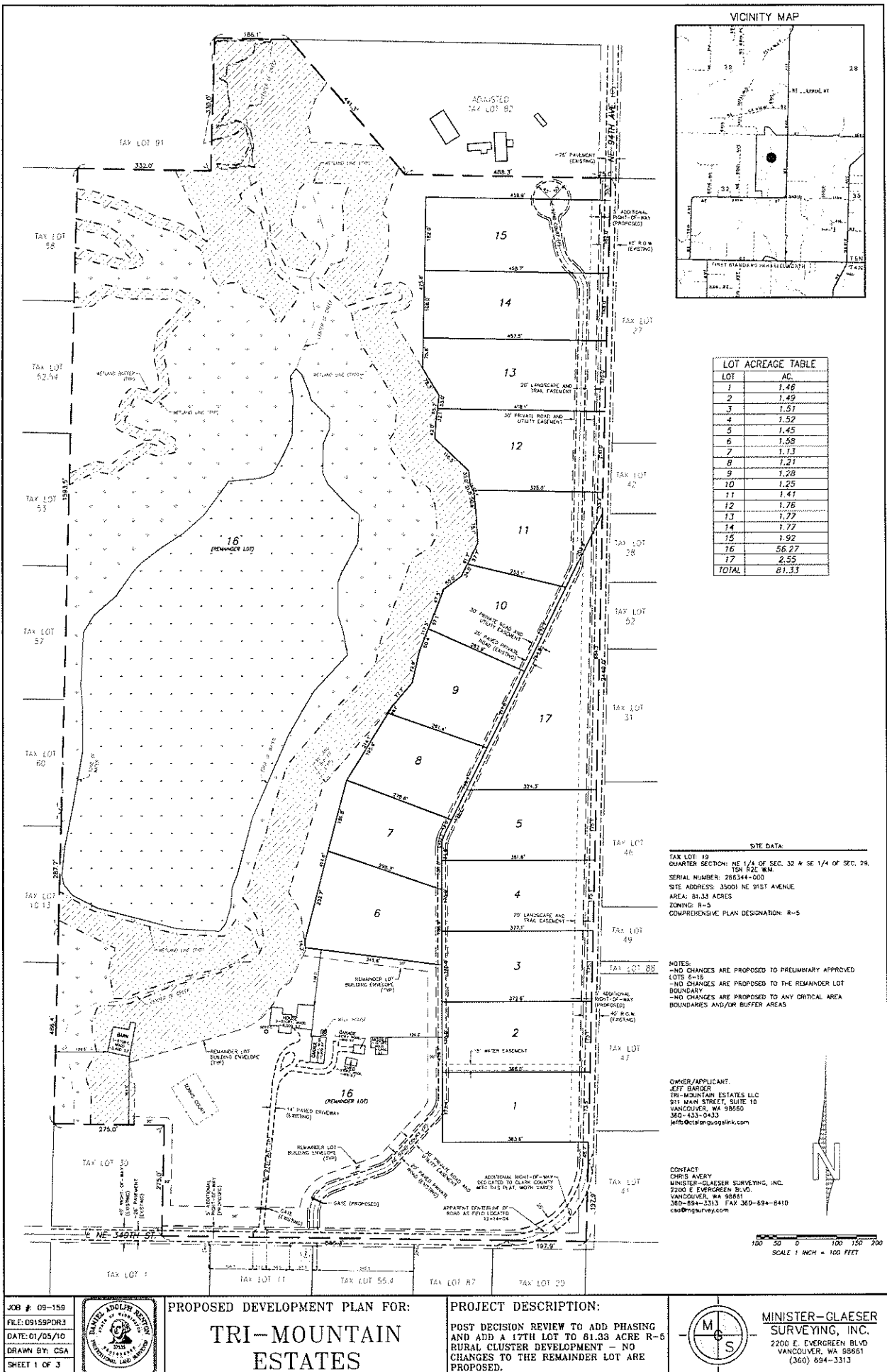
G-2 Building and Fire Safety

Building and Fire, Life, and Safety requirements must be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only for reference in regards to land use conditions. It is the responsibility of the owner, agent, tenant, or applicant to insure that Building Safety and Fire Marshal requirements are in compliance or brought into compliance. Land use decisions do not waive any building or fire code requirements.

DATED this 19th day of April 2010.



Joe Turner, AICP
Clark County Hearings Examiner

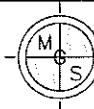


JOB # 09-159
 FILE:09159POR3
 DATE:01/05/10
 DRAWN BY: CSA
 SHEET 1 OF 3



PROPOSED DEVELOPMENT PLAN FOR:
**TRI-MOUNTAIN
 ESTATES**

PROJECT DESCRIPTION:
 POST DECISION REVIEW TO ADD PHASING
 AND ADD A 17TH LOT TO 81.33 ACRE R-5
 RURAL CLUSTER DEVELOPMENT - NO
 CHANGES TO THE REMAINDER LOT ARE
 PROPOSED.



**MINISTER-GLAESER
 SURVEYING, INC.**
 2200 E EVERGREEN BLVD
 VANCOUVER, WA 98661
 (360) 694-3313

HEARING EXAMINER EXHIBITS

Project Name Tri-Mountain Estates Post Decision Review
Case Number PST2010-00001
Hearing Date April 8, 2010



| EXHIBIT NO. | DATE | SUBMITTED BY | DESCRIPTION |
|-------------|---------|--|---|
| 1 | | CC Development Services | Aerial Map |
| 2 | | CC Development Services | Vicinity Map |
| 3 | | CC Development Services | Zoning Map |
| 4 | | CC Development Services | Comprehensive Plan Map |
| 5 | 1/8/10 | Applicant: Minister-Glaeser Surveying Inc. | Full Size Plans |
| 6 | 1/8/10 | Applicant: Minister-Glaeser Surveying Inc. | 1. Table of Contents 2. Application Form 3. Developer's GIS Packet 4. Original Development Plan 5. Original Development Decision 6. Project Narrative 7. Health Department Development Review 8. Stormwater Design Report 9. Proposed Development Plan 10. Preliminary Stormwater Plan |
| 7 | 1/29/10 | CC Development Services | Development Review Fully Complete Determination |
| 8 | 2/12/10 | CC Development Services | Notice of Type III Development Review, Optional SEPA & Public Hearing |
| 9 | 2/12/10 | CC Development Services | Affidavit of Sending Type III Public/SEPA Notice |
| 10 | 3/10/10 | Applicant: Minister-Glaeser Surveying Inc. | Affidavit of Posting |
| 11 | 3/17/10 | CC Development Services | Affidavit of Posting Public Notice |

| EXHIBIT NO. | DATE | SUBMITTED BY | DESCRIPTION |
|-------------|---------|--|---|
| 12 | 3/24/10 | CC Development Services | Legal Notice of Public Hearing |
| 13 | 3/24/10 | CC Development Services – Richard Daviau, Project Planner | Type III Development & Environmental Review, Staff Report & Recommendation |
| 14 | 4/8/10 | CC Development Services | Power Point Pictures |

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810